

House File 238 - Introduced

HOUSE FILE 238
BY ABDUL-SAMAD

A BILL FOR

1 An Act relating to drug or alcohol overdose prevention,
2 education, and medical assistance, and modifying penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 124.417 Immunity — persons seeking
2 medical assistance for drug or alcohol overdose or other medical
3 emergency.

4 1. For purposes of this section:

5 *a. "Drug or alcohol overdose"* means a condition of a person
6 for which each of the following is true:

7 (1) The person requires medical assistance.

8 (2) The person displays symptoms including but not limited
9 to extreme physical illness, decreased level of consciousness,
10 respiratory depression, coma, mania, or death.

11 (3) The person's condition is the result of, or a layperson
12 would reasonably believe the person's condition to be the
13 result of, consumption or use of a controlled substance or
14 alcohol or a substance with which the controlled substance or
15 alcohol was combined.

16 *b. "Seeks medical assistance"* includes but is not limited to
17 reporting a drug or alcohol overdose or other medical emergency
18 to law enforcement, the E911 system, a poison control center,
19 or a medical provider, assisting someone so reporting, or
20 providing care to someone who is experiencing a drug or alcohol
21 overdose or other medical emergency while awaiting the arrival
22 of medical assistance.

23 2. Notwithstanding any other provision of law to the
24 contrary, a person who, in good faith, seeks medical assistance
25 for someone who is experiencing a drug or alcohol overdose or
26 other medical emergency, or a person experiencing a drug or
27 alcohol overdose or other medical emergency who seeks medical
28 assistance or is the subject of such a good-faith request,
29 shall not be arrested, charged, prosecuted, convicted, have
30 property subject to civil forfeiture, or otherwise be penalized
31 for any of the following if the evidence for the arrest,
32 charge, prosecution, conviction, seizure, or penalty was gained
33 as a result of the seeking of medical assistance:

34 *a.* Possession of a controlled substance under section
35 124.401.

1 **b.** Possession of an imitation controlled substance under
2 section 124A.4.

3 **c.** Possession of drug paraphernalia under section 124.414.

4 **d.** Commission of a prohibited act under section 123.47.

5 **e.** Violation of a restraining order.

6 **f.** Violation of probation or parole.

7 3. Notwithstanding any other provision of law to the
8 contrary, the act of seeking medical assistance for someone who
9 is experiencing a drug or alcohol overdose or other medical
10 emergency shall be considered by the court as a mitigating
11 factor in any criminal prosecution for which immunity is not
12 provided by this section.

13 4. This section shall not be used as grounds for the
14 suppression of evidence in a prosecution for any other criminal
15 offense not specified in this section.

16 Sec. 2. NEW SECTION. 124.418 Possession of an opioid
17 antagonist.

18 1. For purposes of this section, "*opioid antagonist*"
19 means any drug that binds to opioid receptors and blocks or
20 disinhibits the effects of opioids acting on those receptors,
21 including but not limited to naloxone hydrochloride.

22 2. Notwithstanding the provisions of this chapter or any
23 other provision of law, a person acting in good faith may
24 possess an opioid antagonist.

25 Sec. 3. Section 147.107, Code 2015, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 5A. *a.* For purposes of this subsection:

28 (1) "*Opioid antagonist*" means the same as defined in section
29 124.418.

30 (2) "*Opioid-related overdose*" means a condition for which
31 each of the following is true:

32 (a) The person requires medical assistance.

33 (b) The person displays symptoms including but not limited
34 to extreme physical illness, decreased level of consciousness,
35 respiratory depression, coma, or death.

1 (c) The person's condition is the result of, or a layperson
2 would reasonably believe the person's condition to be the
3 result of, consumption or use of an opioid, or another
4 substance with which an opioid was combined.

5 b. Notwithstanding subsection 1 or any other provision
6 of law, a health care professional otherwise authorized to
7 prescribe an opioid antagonist may, directly or by standing
8 order, prescribe and dispense an opioid antagonist to a person
9 at risk of experiencing an opioid-related overdose or to a
10 family member, friend, or other person in a position to assist
11 a person at risk of experiencing an opioid-related overdose.
12 Any such prescription shall be regarded as being issued for a
13 legitimate medical purpose in the usual course of professional
14 practice.

15 c. Notwithstanding subsection 1 or any other provision
16 of law, a person or organization acting under a standing
17 order issued by a health care professional who is otherwise
18 authorized to prescribe an opioid antagonist may store and
19 dispense an opioid antagonist so long as such activities are
20 undertaken without charge or compensation.

21 d. A health care professional who, acting in good faith
22 and with reasonable care, prescribes or dispenses an opioid
23 antagonist shall not be subject to any criminal or civil
24 liability or any professional disciplinary action for
25 prescribing or dispensing an opioid antagonist or any outcome
26 resulting from the eventual administration of the opioid
27 antagonist.

28 e. A person who, acting in good faith and with reasonable
29 care, administers an opioid antagonist to another person whom
30 the person believes to be suffering an opioid-related overdose
31 shall not be subject to any criminal or civil liability or any
32 professional disciplinary action for such act.

33 Sec. 4. Section 147A.8, Code 2015, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 3. Administer an opioid antagonist, as

1 defined in section 124.418, as clinically indicated.

2 Sec. 5. NEW SECTION. 155A.45 **Dispensing of naloxone**
3 **hydrochloride.**

4 1. A pharmacist may dispense naloxone hydrochloride in
5 accordance with subsection 2 and the rules adopted by the board
6 pursuant to subsection 3.

7 2. Prior to dispensing naloxone hydrochloride, a pharmacist
8 shall complete a training program that consists of at least
9 one hour of continuing education on the use of naloxone
10 hydrochloride.

11 3. The board shall adopt rules to administer this section,
12 including but not limited to rules providing for:

13 a. Procedures to ensure education of the person to whom the
14 naloxone hydrochloride is dispensed, including opioid overdose
15 prevention, recognition, and response, safe administration
16 of naloxone hydrochloride, potential side effects or adverse
17 events, and the imperative to seek emergency medical care for
18 the patient.

19 b. Procedures for the completion of the required continuing
20 education necessary to dispense naloxone hydrochloride.

21 Sec. 6. NEW SECTION. 217.22 **Report on unintentional drug**
22 **overdose.**

23 The department of human services shall investigate,
24 document, and publish an annual report on the number, trends,
25 patterns, and risk factors related to unintentional drug
26 overdose fatalities occurring within this state each year. The
27 report shall also provide information on interventions that
28 would be effective in reducing the rate of fatal or nonfatal
29 drug overdose.

30 Sec. 7. Section 249A.20A, Code 2015, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 12. Notwithstanding anything in this
33 section to the contrary, the department shall include naloxone
34 hydrochloride on the preferred drug list.

35 Sec. 8. **GRANTS FOR DRUG OVERDOSE PROJECTS.** The department

1 of human services shall make grants for the fiscal years
2 beginning July 1, 2015, July 1, 2016, and July 1, 2017, using,
3 to the fullest extent feasible, existing resources available to
4 the department for any of the following purposes, as determined
5 by the department:

6 1. Drug overdose prevention, recognition, and response
7 education projects.

8 2. Drug overdose prevention, recognition, and response
9 training for patients receiving opioid antagonists and
10 patients' families and caregivers.

11 3. Naloxone hydrochloride prescription or distribution
12 projects.

13 4. Education and training projects on drug overdose
14 response and treatment for emergency services and law
15 enforcement personnel, including but not limited to volunteer
16 fire and emergency services.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill relates to drug and alcohol overdose prevention,
21 assistance, and education, provides immunity from certain
22 criminal offenses for a person who seeks medical assistance for
23 a person experiencing an overdose, and authorizes pharmacists
24 to dispense naloxone hydrochloride.

25 The bill provides immunity from certain crimes for persons
26 who seek medical assistance for a drug or alcohol overdose.
27 If a person seeks medical assistance for another person
28 experiencing a drug or alcohol overdose or other medical
29 emergency, or if a person experiencing a drug or alcohol
30 overdose or other medical emergency seeks medical assistance
31 or is the subject of such a request, such person shall not be
32 arrested, charged, prosecuted, convicted, or have property
33 subject to civil forfeiture for certain crimes if the evidence
34 against the person was gained because medical assistance was
35 sought. The crimes are possession of a controlled substance

1 under Code section 124.401, possession of an imitation
2 controlled substance under Code section 124A.4, possession
3 of drug paraphernalia under section 124.414, commission of
4 a prohibited act under Code section 123.47 (crimes related
5 to a person's possession of alcohol under the legal age),
6 or violation of a restraining order, probation, or parole.
7 Evidence of other crimes discovered because a person sought
8 medical assistance shall not be suppressed.

9 If a person seeks medical assistance for another person who
10 is experiencing a drug or alcohol overdose or other medical
11 emergency and is not immune from criminal liability, the bill
12 provides that a court shall consider the person's seeking
13 medical assistance as a mitigating factor.

14 The bill provides that possession of an opioid antagonist in
15 good faith is not a violation of Code chapter 124 or any other
16 law. The bill defines "opioid antagonist" as any drug that
17 binds to opioid receptors and blocks or disinhibits the effects
18 of opioids acting on those receptors, including but not limited
19 to naloxone hydrochloride.

20 The bill provides that a pharmacist may dispense naloxone
21 hydrochloride after completing a training program. The
22 board of pharmacy is directed to adopt rules related to
23 education requirements for pharmacists to dispense naloxone
24 hydrochloride and procedures to educate persons regarding
25 naloxone hydrochloride, opioid overdose prevention, and the
26 safe administration of naloxone hydrochloride.

27 The bill directs the department of human services to publish
28 an annual report on the number, trends, patterns, and risk
29 factors related to unintentional drug overdose fatalities
30 in Iowa. The bill also directs the department of human
31 services to make grants for FY 2015-2016, FY 2016-2017, and
32 FY 2017-2018, to the fullest extent feasible, from existing
33 resources for drug overdose prevention projects, naloxone
34 hydrochloride prescription or distribution projects, or
35 education and training projects on drug overdose response and

1 treatment for emergency services and law enforcement personnel.

2 The bill directs the department of human services to add
3 naloxone hydrochloride to the Medicaid preferred drug list
4 under Code section 249A.20A.

5 The bill provides that an emergency medical care provider
6 properly certified under Code chapter 147A may administer an
7 opioid antagonist.

8 The bill provides that a health care professional authorized
9 to prescribe an opioid antagonist may prescribe and dispense
10 an opioid antagonist to a person at risk of experiencing an
11 opioid-related overdose or to a family member, friend, or
12 other person who may be able to assist a person at risk of an
13 opioid-related overdose. A person or organization acting under
14 a standing order from a health care professional authorized to
15 prescribe an opioid antagonist may store and dispense an opioid
16 antagonist so long as such person or organization does not
17 charge or receive compensation for such activities. A health
18 care professional who acts in good faith and with reasonable
19 care while prescribing or dispensing an opioid antagonist
20 shall not be subject to any criminal or civil liability or any
21 professional disciplinary action. A person who acts in good
22 faith and with reasonable care while administering an opioid
23 antagonist to another person whom the person believes to be
24 suffering an opioid-related overdose shall be immune from
25 criminal or civil liability or any professional disciplinary
26 action.